

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 792 of 1986

Date of decision: 14th March, 2007

Union of India and another

...Petitioners

Versus

Ujagar Singh and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present: Mr. Kamal Sehgal, Advocate,
for the petitioners.

Mr. GS Punia, Advocate, for the
respondents.

K.S.GAREWAL, J.

In Jullundur Cantonment there existed a piece of land measuring 20.13 acres which was owned by the Government of India. This land was leased to Ujagar Singh for five years from June 1, 1958 to May 31, 1963. The lease was renewed from time to time and the last extension was granted upto May 31, 1974. Since Ujagar Singh did not fall in any of the excepted categories as he was neither ex-serviceman nor landless (he owned

6 acres of land), he became ineligible for further extension. Therefore, when extension was granted upto May 31, 1974, it was made clear to the Ujagar Singh that lease was subject to termination on short notice of 7 days and without payment of compensation for the standing crops. The lease stood terminated on May 17, 1974.

On May 4, 1982, Estate Officer, Jullundur, concluded the eviction proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as **the 1971 Act**) and ordered Ujagar Singh's eviction from the property. Order of Estate Officer, Jullundur dated May 4, 1982 is at Annexure P/1.

Ujagar Singh having died, his heirs Rai Kaur and others filed an appeal before the learned District Judge, Jullundur who came to the conclusion that the order passed by the Estate Officer was without jurisdiction and authority. The order was set aside on January 5, 1985. However, it was clarified that there would be no legal bar for the competent authority to issue a fresh notice for eviction of the tenants in accordance with law. The Judgment of the learned District Judge is dated January 5, 1985 (Annexure P/2).

In this petition, challenge is to the erroneous findings of the learned District Judge that Estate Officer, Jullundur Circle was not the competent authority to issue the original notice. The order of the appellate authority that the Estate Officer had acted without jurisdiction must be set aside and the original order of the Estate Officer be restored.

According to the learned counsel for the Union of India, the Ministry of Works, Housing and Supply through notification dated May 7, 1959, issued under Section 3 of the Punjab Premises (Eviction of

Unauthorized Occupants) Act, 1958 (hereinafter referred to as **the 1958 Act**) appointed Military Estate Officer, Jullundur, to be the Estate Officer for the purpose of the Act to exercise the powers conferred, and perform the duties imposed, on Estate Officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified. Under Entry 27, Military Estate Officers (MEO) were to exercise jurisdiction in respect of premises under the administrative control of the Military of Defence situated within the local limits of their respective jurisdiction.

Learned counsel further referred to the notification dated October 18, 1962 whereby in exercise of the powers conferred by Section 3 of the 1958 Act, notification dated May 7, 1959 was amended and after serial 27, serial 27-A was added which designated Special Military Estates Officer, ex-State Force Properties, New Delhi to exercise jurisdiction over premises under the administrative control of the Ministry of Defence situated in the jurisdiction of Headquarters, Western Command at the relevant time.

In the above factual background, it has been argued that after the notification of October 18, 1962, whereby entry at serial 27-A was inserted there came to be constituted two different Estate Officers under serial 27 and 27-A. The finding of the learned District Judge that Estate Officer, Jullundur was not competent to evict the lessee was not correct.

One need not go very deep into the controversy because what the notification of October 18, 1962 had notified was that Special Military Estates Officer, ex-State Forces Properties, New Delhi would also be authorized to exercise powers under the 1958 Act. This entry had no doubt

been inserted by an amendment but it was not in substitution of the earlier entry 27 which had authorized Military Estate Officer, Jullundur to take action under the Act. A proper interpretation of the later notification would mean that premises under the administrative control of the Ministry of Defence, which were situated in the jurisdiction of headquarters of Western Command, Special Military Estates Officer ex-State Force, Properties, New Delhi would also exercise jurisdiction. October 1962 was a critical moment in our nation's history as war with China was imminent and Headquarters of Western Command could also move for strategic or tactical reasons. This could have been one of the reasons for introducing S. No. 27-A on October 18, 1962.

Therefore, there were two authorities who could exercise jurisdiction under the Act, Military Estate Officer, Jullundur (entry 27) and Special Military Estates Officer, ex-State Force Property, New Delhi (entry 27-A). The finding of the learned District Judge that “under 1962 notification vide item No. 27 (A) no such power was conferred on the Military Estate Officer. Thus the aforesaid notification of 1962 did not confer, Military Estates Officer, Jullundur Cantt. to act as an competent authority to issue impugned notice”, is clearly mis-conceived. Since both officers had jurisdiction and one of them had acted, there was no illegal exercise of jurisdiction, Annexure P/1 was not illegal for want of jurisdiction.

Resultantly, this petition is allowed. The judgment of the learned District Judge dated January 5, 1985 Annexure P/2 is hereby set aside and the order of the Estate Officer, Jullundur Circle, Jullundur Cantt dated May 4, 1982 Annexure P/2 is hereby restored.

(Note:-The old spelling of Jullundur has been used to maintain consistency).

The petition is disposed of in the above terms.

March 14th, 2007
prem

(K.S.GAREWAL)
JUDGE